

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

PAUL VALLE a/k/a PABLO VALLE, JR.,

Plaintiff,

v.

DIVERSIFIED ADJUSTMENT SERVICE,
INC.,

Defendant.

7:19-cv-00373

Honorable Micaela Alvarez

**PLAINTIFF'S MOTION FOR LEAVE
TO FILE FIRST AMENDED COMPLAINT**

NOW comes PAUL VALLE a/k/a PABLO VALLE, JR. ("Plaintiff"), by and through his attorneys, Sulaiman Law Group, Ltd. ("Sulaiman"), and pursuant to Fed. R. Civ. P. 15(a)(2), respectfully bringing this Motion for Leave to File First Amended Complaint, and in support thereof, states as follows:

1. On October 28, 2019, Plaintiff filed his Complaint seeking redress for alleged violations of the Fair Debt Collection Practices Act ("FDCPA"), the Bankruptcy Discharge Injunction ("Discharge Injunction"), and the Texas Debt Collection Act ("TDCA"). [Dkt #1].

2. Through their respective counsels, the parties have exchanged information and documents relevant to Plaintiff's claims.

3. Upon full consideration of the documents disclosed by Defendant, Plaintiff wishes to amend his original Complaint to address purported deficiencies set forth by Defendant and additional claims Plaintiff has under the FDCPA.

4. Pursuant to Fed. R. Civ. Pro. 15(a)(2), a court should freely give a party leave to amend its pleading when justice requires. *See* Fed. R. Civ. P. 15(a)(2).

5. “Rule 15(a) declares that leave to amend ‘shall be freely given when justice so requires’; this mandate is to be heeded. If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits.”” *Foman v. Davis*, 371 U.S. 178, 182 (1962).

6. A District Court may deny a motion to amend where there is “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amended, etc.” *Id.*

7. Justice would be served if Plaintiff is granted leave to amend his Complaint as it would allow Plaintiff the opportunity to seek relief for his alleged injuries based on the underlying facts.

8. Plaintiff’s Motion for Leave to Amend is not brought for purposes of causing undue delay, nor is it the result of bad faith or other dilatory motive. Plaintiff’s Motion for Leave to Amend is designed to address the purported deficiencies proffered by Defendant. This is Plaintiff’s first request to amend his Complaint and Defendant will not suffer any prejudice as a result of the amendment.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter an order granting Plaintiff leave to file his First Amended Complaint.

Dated December 17, 2019

Respectfully submitted,

/s/ Nathan C. Volheim

Nathan C. Volheim Esq. #6302103

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Counsel for Plaintiff

CERTIFICATE OF CONFERENCE

Plaintiff's counsel was unable to confer with Defendant's counsel about the relief sought in the foregoing motion as Defendant has not entered this case.

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Plaintiff, certifies that December 17, 2019, he caused a copy of the foregoing Plaintiff's Motion for Leave to File First Amended Complaint, to be served by U.S. Certified mail and electronic mail on:

Diversified Adjustment Service, Inc.
600 Coon Rapids Boulevard
Minneapolis, MN 55433

/s/ Nathan C. Volheim

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